

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

INTELLECTUAL VENTURES I LLC and	)	
INTELLECTUAL VENTURES II LLC,	)	Civil Action No. 1:14-cv-00220-MRH
	)	
Plaintiffs,	)	LEAD CASE
	)	
v.	)	U.S. District Judge Mark R. Hornak
	)	
ERIE FAMILY LIFE INSURANCE COMPANY;	)	ELECTRONICALLY FILED
ERIE INDEMNITY COMPANY;	)	
ERIE INSURANCE COMPANY;	)	
ERIE INSURANCE EXCHANGE;	)	
ERIE INSURANCE PROPERTY & CASUALTY	)	
COMPANY; and	)	
FLAGSHIP CITY INSURANCE COMPANY,	)	
	)	
Defendants.	)	

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**ERIE ET AL.’S MOTION FOR TELEPHONIC STATUS CONFERENCE**

NOW COME Defendants Erie Indemnity Company; Erie Insurance Exchange; Erie Insurance Property & Casualty Company; Erie Insurance Company; Flagship City Insurance Company; Erie Family Life Insurance Company; (collectively, “Erie”), and respectfully request a Telephonic Status Conference with this Court to address Erie’s obligations to answer Plaintiffs’ complaint as to U.S. Patent Number 7,757,298 (“298 patent”).

1. On November 5, 2014, Erie and the Highmark defendants filed their motion to dismiss Plaintiffs’ Complaint on, *inter alia*, the ground that the claims of asserted U.S. Patent Nos. 6,519,581 (“581 patent”) and 6,510,434 (“434 patent”) are not eligible for patent protection under 35 U.S.C. § 101, and are thus invalid.<sup>1</sup> See Dkt. 46. On February 27, 2015, Erie and the

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<sup>1</sup> Defendant Old Republic filed its own motion to dismiss on the same grounds, alleging that, in addition to the ’581 patent and the ’434 patent, U.S. Patent No. 6,546,002 is similarly patent ineligible and should be invalidated. See Dkt. 31.

Highmark defendants filed another motion to dismiss on the ground that the '581 patent should be dismissed for lack of subject matter jurisdiction. *See* Dkt. 74.

2. In its November 5 motion, Erie also asserted that the Plaintiffs' complaint as to all patents, including the '298 patent, should be dismissed for its failure to meet the pleading requirements of the Federal Rules of Civil Procedure. *See, e.g.*, Dkt. 46-1 at 3, 20 n.15, 24 ("Defendants also request that the Court dismiss under Rule 12(b)(6) IV's direct and indirect infringement claims ***with respect to all patents*** for failing to state a proper claim, or, in the alternative, require IV to provide a more definite statement with respect to these claims pursuant to Rule 12(e)." (emphasis added)); *see also* 2015-04-15 Hr'g Tr. at 225:3-13 (referring to ruling on the sufficiency of IV's pleadings with respect to the '298 patent).

3. On September 25, 2015, this Court granted all of defendants' motions as to patent ownership and patent eligibility, dismissing the '581 patent for lack of subject matter jurisdiction, and finding the '002, '581, and '434 patents invalid under 35 U.S.C. § 101. *See* Dkts. 117, 118. The Court did not address the portions of Erie/Highmark's motion challenging the sufficiency of Plaintiffs' pleadings. *See* Dkt. 117, at 70 n.72.

4. The Court has ordered Erie to "file an Answer as to the claims related to the '298 Patent within twenty-one (21) days of this Order." *See* Dkt. 118 ¶ 1. However, because this Court has not ruled on Erie's motion under Rule 12(b)(6) with respect to the '298 patent, that motion remains pending, and Erie should therefore not be required to answer Plaintiffs' complaint at this time.

5. Erie therefore respectfully requests that this Court schedule a telephonic status conference with the parties to discuss how this Court would prefer to proceed in light of the remaining '298 patent.

Dated: October 2, 2015

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 2, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel or parties of record electronically by CM/ECF.

Dated: October 2, 2015

By: /s/ Gregory H. Lantier  
Gregory H. Lantier